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Attorneys for Defendant  
**THE HERSHEY COMPANY**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

REBECCA ESCOBAR, individually and  
on behalf of those similarly situated,

Case No. 5:24-cv-06844-EJD

Assigned to: Hon. Edward J. Davila

**DEFENDANT'S NOTICE OF MOTION  
AND MOTION TO DISMISS  
AMENDED COMPLAINT**

Plaintiff,

v.

## THE HERSHEY COMPANY,

Defendant.

**DATE: MARCH 27, 2025**

**TIME: 9:00 A.M.**

## COURTROOM: 4

1 TO THE COURT AND ALL PARTIES AND COUNSEL OF RECORD:

2 Please take notice that on March 27, 2025 at 9:00 a.m., or soon thereafter as the  
3 matter may be heard, in the Courtroom of the Honorable Edward J. Davila, sitting in  
4 the United State Courthouse, Courtroom 4–5th Floor, 280 South 1st Street, San Jose,  
5 California, 95113, Defendant The Hershey Company will and hereby does move this  
6 Court for an Order dismissing Plaintiff's Amended Complaint. This Motion is made  
7 based on Plaintiff's failure to state a claim, including:

- 8
- 9 • Plaintiff has not pleaded facts making it plausible under Rule 8 that  
10 reasonable consumers would have been deceived by the alleged  
misconduct.
  - 11 • Plaintiff has not pleaded fraud with particularity as required under Rule  
12 9(b).
  - 13 • Plaintiff has not pleaded facts showing “substantial similarity” between  
14 the products she bought and those she did not.
  - 15 • Plaintiff cannot sue under Pennsylvania state law and cannot represent  
16 anyone who could do so.
  - 17 • The Court should dismiss all claims for equitable relief. Plaintiff has not  
18 pleaded facts showing legal remedies would be inadequate and her  
19 demand for injunctive relief is moot.

20 This Motion is based on this Notice, the Memorandum of Points and Authorities,  
21 the pleadings and documents on file, and such other evidence and argument as may be  
22 presented at the hearing on this Motion.

1 Dated: February 6, 2025

Respectfully submitted,

2 SHOOK, HARDY & BACON L.L.P.

3  
4 By: /s/ Naoki S. Kaneko  
Naoki S. Kaneko  
5 Amir M. Nassihi  
M. Kevin Underhill  
6 Russell L. Taylor

7 Attorneys for Defendant,  
The Hershey Company

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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on February 6, 2025, I caused a true and correct copy of the foregoing Defendants' Notice of Motion and Motion to Dismiss to be filed electronically. Notice of this filing will be sent to all parties registered on this Court's ECF system by operation of the Court's electronic filing system. The Parties may access this filing through the Court's system.

/s/ Naoki S. Kaneko  
Naoki S. Kaneko